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Performance Audit

Coal Board

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This report contains recommendations for improvements in the coal impact assistance program. The recommendations include:

- Legislature reconsider the role of the Coal Board.
- Amend legislation to provide for a workable loan program.
- Coal Board set priorities for project applications.
- Coal Board develop a policy and procedures to verify other funding sources.

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Members of the performance audit staff hold degrees in disciplines appropriate to the audit process. Areas of expertise include business and public administration, statistics, economics, computer science, and engineering.

Performance audits are performed at the request of the Legislative Audit Committee which is a bicameral and bipartisan standing committee of the Montana Legislature. The committee consists of four members of the Senate and four members of the House of Representatives.

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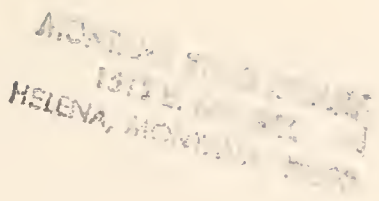

STATE OF MONTANA

OFFICE OF THE LEGISLATIVE AUDITOR

Performance Audit

MONTANA COAL BOARD

June 1986

86P-42

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PERFORMANCE AUDIT REPORT

COAL BOARD

June 1986

Report Number 86P-42

Members of the audit staff involved in this audit were: Jim Nelson, supervisor; Ron Smith, auditor-in-charge; and Rob Spear, staff auditor. Additional information on the audit can be obtained by contacting the Office of the Legislative Auditor at (406) 444-3122.

STATE OF MONTANA

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JOHN W. NORTHEY

June 1986

The Legislative Audit Committee
of the Montana Legislature:

This is our performance audit of the Coal Board. The Coal Board is attached to the Department of Commerce for administrative purposes only.

This report contains conclusions and recommendations concerning Coal Board operations and procedures. Responses from the Department of Commerce and the Coal Board are contained at the end of the report.

We wish to express our appreciation to the department, Coal Board members and staff for their cooperation and assistance.

Respectfully submitted,

Scott A. Seacat
Legislative Auditor

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APPOINTIVE AND ADMINISTRATIVE OFFICIALS

COAL BOARD MEMBERS

		Term Expires
Hershel M. Robbins, Chairman	Roundup	1989
Nell Kubesh, Vice-Chairman	Glendive	1989
Paul Palm	Hardin	1987
Dr. Dale Tash	Dillon	1987
Darcy Galasso	Butte	1989
Jack Stevens	Great Falls	1989
Monty Long	Kalispell	1987

DEPARTMENT OF COMMERCE[1]

Keith L. Colbo — Director

LOCAL GOVERNMENT ASSISTANCE DIVISION

Newell B. Anderson — Administrator

COAL BOARD

Murdo A. Campbell — Administrative Officer

[1]The Coal Board is attached to the Department of Commerce for Administrative purposes only.

OFFICE OF THE LEGISLATIVE AUDITOR

PERFORMANCE AUDIT OF THE COAL BOARD

Executive Summary

This report is the result of our performance audit of Coal Board operations. The board is attached to the Department of Commerce for administrative purposes only.

Background

The Coal Board was established in 1975 by section 2-15-1821, MCA. Presently, the board has two and one-half FTEs devoted to the administration of the program. The seven Coal Board members are appointed to the board by the governor, subject to Senate confirmation.

The intent of the Coal Board is to assist local governments with projects needed as a consequence of large scale development of coal mines and coal using energy facilities. The Legislature set a priority for grants by requiring at least 50 percent of the grants be awarded to areas designated as impacted. Designation is based on criteria identified in the law.

Recent legislative sessions have reduced Coal Board funding from 8.75 percent of the Coal Severance Tax revenues to 3 percent for fiscal year 1985-86 and 2.64 percent for fiscal year 1986-87. The board received approximately $8 million for fiscal year 1984-85. This amount was reduced to approximately $2.6 million for 1985-86, and $2.4 million in fiscal year 1986-87.

Since the creation of the board in 1975, through May 1986, the board has acted on 286 applications. As a part of the board's formal procedures, applications must be reviewed on two different occasions before final approval of the grant or loan. The 286 applications resulted in 192 grants totaling over $59 million and 94 applications that were denied totaling approximately $51 million in requests. The board has not given any loans.

Coal Board Procedures

The board reviews applications in a two-stage process: the preapplication stage and the full application stage. Each application is evaluated on its own merits. We believe, because of decreased funding, it would be more effective to identify different categories of need and set a priority on grant requests that fall within these categories. For example, applications could be separated into categories that meet the needs of education, public health and safety, human services, and road construction and recreation. The board could then set priorities on which categories board funding needs to be concentrated. (Recommendation #1, page 23.)

When developing general categories, the board should use sufficient information on what types of projects are still needed in the impacted area. The board lacks information on local government priorities and future needs. We recommend the board collect this information by sending a questionnaire to local government officials to identify their needs. (Recommendation #1A, page 23.)

During each Coal Board meeting a number of full applications are reviewed and awards given. Because of reduced funding, it is more appropriate to review a larger number of applications and set priorities. If the board awarded grants at scheduled intervals rather than every meeting, more applications could be considered and priorities established over a larger number of projects. We recommend the board award grants on a semi-annual basis. (Recommendation #1C, page 23.)

The Coal Board has awarded grants to applicants that pledge funding from additional sources to cover the remaining cost of the project. Currently, the board does not have a policy to require documentation from other funding sources to verify commitment of funds. Without this documentation the potential exists for a project not to be fully funded. The project could be left incomplete or the Coal Board could be asked to provide additional funding.

Because of reduced funding, the board is in a position of not having money available to meet costs left unpaid because other commitments did not materialize. We recommend the Coal Board develop a policy and procedures for the staff to verify other funding sources before the release of Coal Board funds (Recommendation #2, page 24).

Coal Board's Role

In order to judge if a program like the Coal Board is still necessary to address the impact of coal development, we attempted to:

1. identify present impact,
2. predict future impact, and
3. determine if impacted areas were able to handle existing and future needs.

We found that, because of the changing needs in coal impacted areas, it is appropriate for the Legislature to reconsider the role of the Coal Board. (Recommendation #3A, page 39.)

Projects are still needed in four areas: (1) highway and road construction; (2) planning studies; (3) water monitoring projects; and (4) human services. The Legislature needs to decide if these projects are the types of projects intended to be funded by the Coal Board. The Legislature could consider several alternative changes to the law depending on legislative intent for the role of the Coal Board. The major changes can be accomplished by amending the section of the law related to designated areas. We recommend the Legislature amend the designated area criteria and/or establish special accounts to meet the funding needs of the Coal Board. (Recommendation #3B, page 39).

A majority of the initial needs, due to coal development have been met. However, other needs that could be funded with the increased tax base still exist. Loans could be an appropriate method to finance human service programs and recreational facilities for the coal impacted areas. In addition, a workable loan program would allow the board to recycle its available funds and

generate additional money to meet future demands. We recommend the Legislature provide for a workable loan program by abolishing the prohibition against using property taxes for repayment. (Recommendation #4, page 40.)

Coal Board Administration

Based on our observations of staff procedures and review of job descriptions, the staff is performing their duties adequately with the exception of two monitoring deficiencies. We recommend the staff develop a standard quarterly report form to be used by the grantees (Recommendation #5, page 41) and have the project evaluator track the initial disbursements made by the Coal Board to assure contract compliance (Recommendation #6, page 41).

CHAPTER I

INTRODUCTION

At the request of the Legislative Audit Committee, a performance audit was conducted of the Coal Board. The purpose of the Coal Board is to grant or loan funds to governmental units and agencies. The grants or loans are designed to assist in providing governmental services and facilities which are needed as a direct consequence of coal development.

AUDIT OBJECTIVES

The objectives of our performance audit were:

1. To examine legislative intent to determine if the Coal Board is achieving program goals intended by the legislature.

2. To determine if the Coal Board is managing and utilizing its resources economically and efficiently and to identify the causes of inefficiencies or uneconomical practices.

3. To determine if Coal Board procedures are in compliance with state laws and administrative rules.

SCOPE OF AUDIT

The audit was conducted in accordance wtih generally accepted governmental performance auditing standards. The audit did not include a review of the financial status of the board which is done as a separate audit.

The audit focused on Coal Board operations since the board's inception in 1975.

During the audit we visited several funded projects and also some projects which were denied funding by the Coal Board. Random samples were selected to compare past projects (1976-1981) with those considered in recent years (1981-present) when there was less growth in the coal industry.

Our visits included observations and interviews with grant recipients, board members, state officials, and other organizations interested in Coal Board activities. Observations were made of

Coal Board procedures during board meetings.

At the Coal Board Office in Helena, we examined management controls, conducted interviews with Coal Board staff, reviewed application and grant files and minutes from previous Coal Board meetings, and examined the statutory designation of impacted areas.

Finally, assistance programs in other states were contacted to provide information on how other programs operate.

COMPLIANCE

As part of our audit we reviewed compliance with laws and administrative rules related to the administration of the Coal Board. Significant instances of noncompliance with laws or rules were not found during our examination. For items we did not specifically test for compliance, nothing came to our attention that would indicate instances of noncompliance.

PRIOR AUDIT RECOMMENDATIONS

We conducted a performance audit of the Coal Board in fiscal year 1980-81. Several areas of concern addressed during our previous performance audit are readdressed in this audit report. These include: re-evaluating designated area criteria, enacting legislation to allow for a workable loan program, and developing a general list of priorities for awarding grants.

Other areas previously covered included an evaluation of the computerized Financial Assessment System and development of security for the system. These are no longer concerns because of the inactivity of the system.

The prior audit also recommended that the Coal Board perform on-site reviews of funded projects and require grantees to submit project completion reports. Additional recommendations were made to have the Coal Board continue to use all statutory criteria governing impact grants, to seek professional technical assistance and to expand its publication for local government applicants. Recommendations in these areas were implemented.

CHAPTER II

BACKGROUND

The Coal Board was established by the 1975 Legislature. The legislation established the local impact and education trust fund account within the earmarked revenue fund. Section 90-6-201, MCA, states the purpose of the Coal Board is:

> . . . to assist local government units which have been required to expand the provision of public services as a consequence of large-scale development of coal mines and coal using energy complexes. . .

In order to provide an understanding of board functions we discuss past and present distributions of the severance tax, and overall board operations including structure, staffing and funding. We also discuss the grant process, the approval process, and grant statistics.

COAL SEVERANCE TAX

The present 30 percent coal severance tax was enacted by the 1975 Legislature. The severance tax is designed to compensate for the loss of a nonrenewable resource. Severance tax collections from fiscal years 1975-76 through 1985-86 total approximately $710 million. The distribution of the tax has been changed numerous times by the Legislature, including the percentage allocated to the Coal Board. The Coal Board allocation (designated as local impact) has fallen from a high of 17.5 percent in fiscal year 1975-76 to a low of 2.64 percent in fiscal year 1986-87. Starting in fiscal year 1987-88 the percent for impact is scheduled to increase to 6.65 percent. Presently the allocation for local impact is 3 percent. Illustration 1 shows the projected revenue of coal severance tax allocated to various programs in fiscal year 1985-86.

COAL SEVERANCE TAX DISTRIBUTION
ESTIMATED FOR FY 1985-86

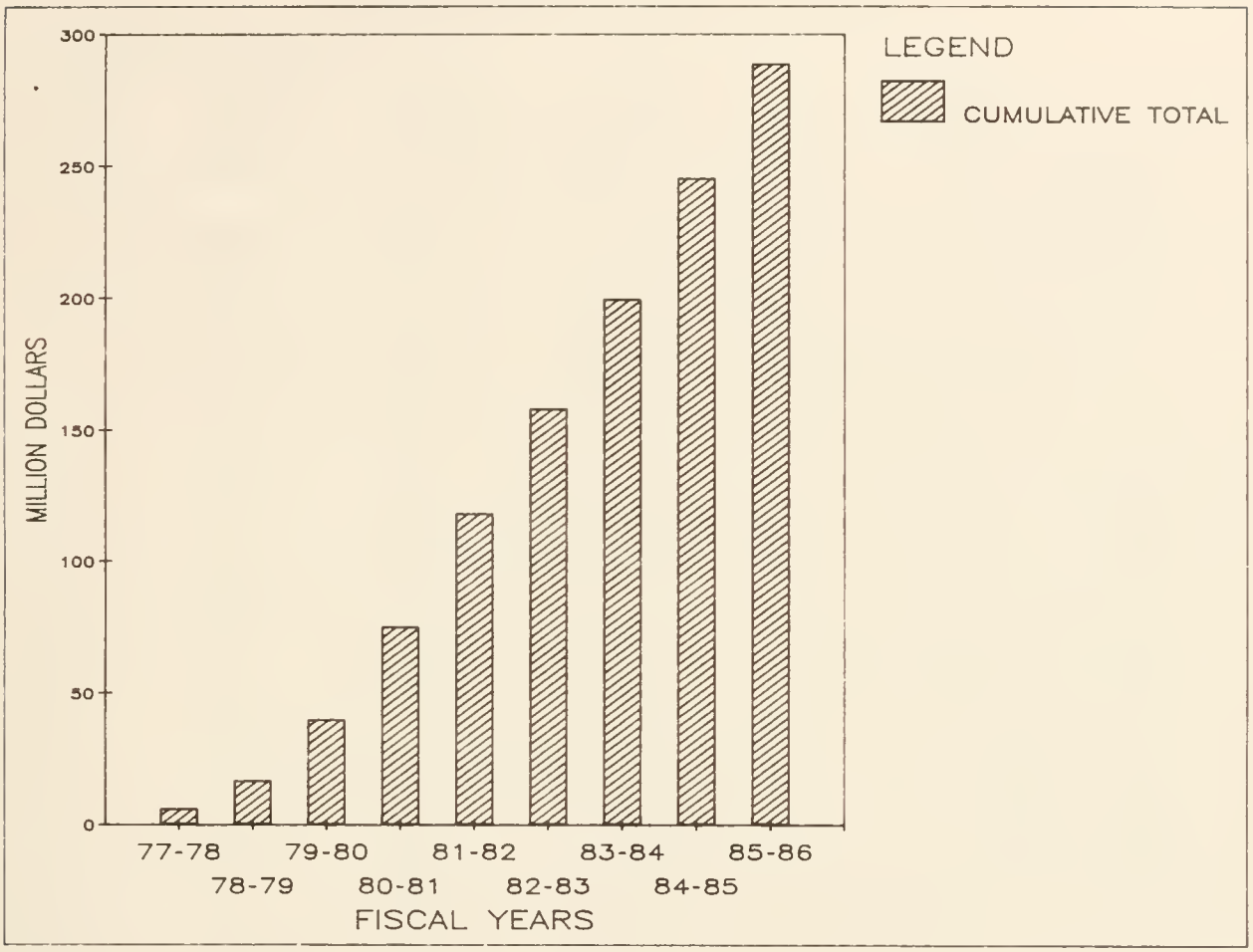
PROGRAM	PROJECTED REVENUE
Constitutional Trust Fund	$43,416,000
General Fund	20,622,000
Education Trust	8,683,000
Public School Equalization	4,342,000
Local Impact (Coal Board)	2,605,000
Park Acquisition Trust	2,171,000
Highway Reconstruction Trust	1,737,000
Alternative Energy Research	1,085,000
Renewable Resource Bonds	543,000
Water Development	543,000
County Land Planning	434,000
State Library	434,000
Conservation Districts	217,000
Total	$86,832,000

Source: Governor's Office of Budget and Program Planning as of May 1, 1986.

Illustration 1

Illustration 2 shows the cumulative balance of the Constitutional Trust Fund from fiscal years 1977-78 through 1985-86. The balance at the end of fiscal year 1985-86 is predicted to be approximately $288 million.

CUMULATIVE BALANCE OF CONSTITUTIONAL TRUST FUND
FISCAL YEARS 1977-78 THROUGH 1985-86



Source: Governor's Office of Budget and Program Planning.

Illustration 2

Illustration 3 shows the past, present and expected future percentage of coal severance tax distribution to all eligible programs.

COAL SEVERANCE TAX DISTRIBUTION
FISCAL YEARS 1984-85 THROUGH 1987-88

Program	FY 1984-85 Percent	FY 1985-86 Percent	FY 1986-87 Percent	FY 1987-88 Percent
Permanent Trust	50.000%	50.000%	50.000%	50.000%
General Fund	19.000%	23.750%	20.900%	14.430%
Education Trust	10.000%	10.000%	8.800%	7.600%
Public School Equalization	5.000%	5.000%	4.400%	3.800%
Local Impact (Coal Board)	8.750%	3.000%	2.640%	6.650%
Park Acquisition Trust	2.500%	2.500%	2.200%	1.900%
Highway Reconstruction Trust	0.000%	2.000%	7.760%	12.000%
Alternative Energy	2.250%	1.250%	1.100%	1.710%
Renewable Resource Bonds	0.625%	0.625%	0.550%	0.480%
Water Development	0.625%	0.625%	0.550%	0.480%
State Library	0.500%	0.500%	0.440%	0.380%
County Land Planning	0.500%	0.500%	0.440%	0.380%
Conservation Districts	0.250%	0.250%	0.220%	0.190%
TOTALS	100.000%	100.000%	100.000%	100.000%

Source: Governor's Office of Budget and Program Planning

Illustration 3

LEGISLATIVE INTENT

As defined by the original law, the intent of the Coal Board is to assist local governments with projects needed as a consequence of large scale development of coal mines and coal using energy facilities. The Legislature also set a priority for impact grants by requiring at least 50 percent of the grants to be awarded

to areas designated as impacted, based on a 10 percent population increase.

Recent Amendments

During the last two legislative sessions significant changes were made to laws governing the Coal Board. Board general powers were expanded during the 1983 Legislature to allow the board to make loans based on the same general criteria used for awarding grants. Also, the 1983 Legislature allowed the board to consider grants and loans to federally recognized Indian tribes.

The 1985 Legislature made several changes including:

HB 919 - Transferred six percent of the Coal Severance Tax revenues to the Department of Highways, Highway Reconstruction Trust Fund.

SB 379 - Specifically allows the Coal Board to make grants for certain highway construction, repair and maintenance.

HB 949 - Appropriated $750,000 from fiscal year 1984-85 Coal Board funds to the school foundation program.

SB 156 - Changed the designation criteria for Coal Board grants and loans to expand the number of local governments that qualify for designation.

In addition, the 1985 Legislature reduced Coal Board funding from 8.75 percent of the Coal Severance Tax revenues to 3 percent for fiscal year 1985-86 and 2.64 percent for fiscal year 1986-87. The percentage is scheduled to increase for fiscal year 1987-88 to 6.65 percent of the Coal Severance Tax revenues. The Coal Board had approximately $8 million for grants for fiscal year 1984-85. This amount was reduced to approximately $2.6 million for 1985-86, and $2.4 million in fiscal year 1986-87.

GOALS OF THE BOARD

The overall goal of the Coal Board is to help local governments provide needed services which are necessary because of coal development. The board tries to fund only services the local

governments are unable to pay for themselves. The board has always set a high priority on planning projects and believes it should continue to do so. Human service and water monitoring grants are also projects that are important to coal impacted areas.

The board believes that impact of decline (local government needs brought about by reduced coal production and related population decline) is a future concern it should address. During the 1985 legislature, the board supported Senate Bill 4, that was introduced at the request of the Coal Tax Oversight Subcommittee. The purpose of the bill was to establish an Impact of Decline Trust Fund account to be funded by unexpended Coal Board appropriations. Money not awarded by the Coal Board at the end of its appropriation period would have been deposited in the impact of decline account until it reached $20 million. However, this bill did not pass. The Coal Board again emphasized their commitment to the impact of decline in a resolution approved at their meeting on May 10, 1986.

BOARD OPERATIONS

Structure

The Coal Board was created by section 2-15-1821, MCA, and its seven members are appointed by the Governor. Appointments to the board are for staggered four-year terms and are subject to Senate confirmation. Section 2-15-1821, MCA, requires board members be selected as follows:

"-- two from impact areas; and

-- two with expertise in education.

The Governor shall further, in making these appointments, consider people from these fields:

-- business;

-- engineering;

-- public administration; and

-- planning.

No more than four members may be residents of the same congressional district."

The board is required by law to meet a minimum of four times a year. Six meetings were held in fiscal year 1984-85. Members receive $50 per day compensation plus travel expenses, as provided by law, when conducting official board business.

Staffing

The Coal Board is allocated to the Department of Commerce for administrative purposes only. The department directs and supervises the budgeting, record keeping, reporting, and related administrative and clerical functions of the board. The department provides the board with staff and office space in Helena.

Presently, the board has two and a half full-time equivalents (FTEs) consisting of an administrative officer, a project evaluator, and a half-time administrative secretary.

Funding

The board is funded by a percentage of the Coal Severance Tax. Separate appropriations are given for operating costs and for impact grants. Illustration 4 is a summary of Coal Board revenues and expenditures for the fiscal years 1975-76 to 1984-85.

COAL BOARD REVENUES AND EXPENDITURES
FOR FISCAL YEARS 1975-76 THROUGH 1984-85

Fiscal Year	Revenue	Expenditures		Reversions	Transfers
		Operating Costs	Grants		
1984-85	$ 8,028,025	$ 168,781	$ 7,105,023	$ 4,221	$750,000[1]
1983-84	7,247,050	169,497	7,025,690	51,863	
1982-83	7,003,936	158,468	6,839,908	5,560	
1981-82	7,541,349	185,351	4,618,317	2,737,681	
1980-81	6,161,314	99,865	5,743,700	317,749	
1979-80	9,030,162	112,027	7,747,224	1,170,911	
1978-79	5,399,195	103,617	3,434,247	1,861,331	
1977-78	4,798,525	73,216	2,387,125	2,338,184	
1976-77	6,283,560	59,687	10,039,966	(3,816,093)[2]	
1975-76	3,855,567	41,033	2,246,651	1,567,883	
Total	$65,348,683	$1,171,542	$57,187,851	$ 6,239,290	$750,000

[1]In FY 1984-85 $750,000.00 was transferred to the school foundation program by the 1985 Legislature.

[2]This is to account for money committed to repay bond payments for ten years.

Source: Compiled by the Office of the Legislative Auditor from board records.

Illustration 4

Revenues are the funds available to the board based on a percentage of the total Coal Severance Tax. Reversions are non-committed funds at the end of a fiscal year that can be used only for the purpose of the Educational Trust Fund.

BOARD GRANT PROCESS

The general powers of the board are set forth in section 90-6-205, MCA. These powers allow the board to:

-- retain professional consultants and advisors;
-- adopt rules governing its proceedings;
-- consider applications for grants;
-- consider applications for loans; and
-- award grants and loans.

Although the board has the power to grant loans, none have been given. We will discuss the loan program in Chapter IV.

Grant Criteria

Under section 90-6-206, MCA, grants and loans shall be awarded on the basis of:

-- need;
-- degree of severity of impact from the coal development;
-- availability of funds; and
-- degree of local effort in meeting these needs.

Conformation to these statutory criteria is essential to the board's consideration of the project. Every applicant must show a need for the project, and this need must be due to the impact caused from coal development.

The availability of funds criteria has become increasingly important with a recent reduction in funds received by the board. The board is faced with the necessity of funding fewer projects and requiring more local effort from applicants.

Local Effort

Increased local tax effort through increases in millage rates can be used as an indicator of sufficient local effort. The board has varied the amount of local effort required based on the local government's ability to increase bonded indebtedness or mill levies. For example, Rosebud County projects are normally required to pledge at least 50 percent of project costs in local effort. This is because of Rosebud County's large tax base and low mill levy. On the other hand, Treasure County is not required to show more than 25 percent in local effort. The following provides an explanation of mill levies and local effort.

The value of one mill ($1 tax on every $1,000 of taxable value) for fiscal year 1985-86 is $237,854.47 in Rosebud County and $4,661.80 in Treasure County.

For each county to provide one million dollars in local effort through a mill levy increase, the following formula can be used in calculating the number of additional mills needed:

$$\frac{\text{Amount Needed}}{\text{Value of 1 Mill}} = \#\text{ of mills needed}$$

For Rosebud County:

$$\frac{\$\ 1{,}000{,}000}{\$237{,}854.47/\text{mill}} = 4.2 \text{ mills}$$

For Treasure County:

$$\frac{\$1{,}000{,}000}{\$4{,}661.80/\text{mill}} = 214.51 \text{ mills}$$

The needed mill levies would effect the property taxes of a residential home with a market value of $50,000, differently in each county.

	Rosebud	Treasure
Market Value	$50,000	$50,000
Taxable Percentage Rate*	3.86%	3.86%
Taxable Value	$ 1,930	$ 1,930
X Mill Levy Increase	.0042	.2145
Property Tax Increase	$ 8.11	$413.99

*The taxable percentage rate shown is for residential property for calendar year 1986 and is the same for every county.

The net result would be a small effect on an individual's property taxes in Rosebud County, and a large change in Treasure County. Treasure County is impacted by coal development but does not have the industrial tax base experienced by Rosebud County. The flexibility of the Coal Board allows the board to alter the requirement for local effort.

Eligibility and Designated Area Requirements

Section 90-6-208, MCA, defines which entities may apply for Coal Board grants:

"The governing body of a city, town, county, school district, any other local or state government unit or agency, or the governing body of a federally recognized Indian tribe..."

Attorney General's Opinion No. 22, Volume No. 37, stated that county water and sewer districts and rural improvement districts are "units of local government" which qualify for assistance. The opinion went on to state that counties may apply for grants for rural improvement districts and that cities, towns, and consolidated units of local government may apply for grants for special improvement districts.

Another factor considered by the board is the designated area requirement. Section 90-6-207, MCA, sets forth the requirement that the Montana Department of Commerce shall annually designate areas that are impacted by coal development based on actual or expected population increases, and each local governmental unit that is located within 50 miles of a new mine or coal burning facility which produces or burns one million tons or more coal a year. Through May 1986, 67 percent of the impact funds have gone to areas designated by the Department of Commerce. Illustration 5 shows the types of local governments and state agencies that have received grants. It also shows the distribution of grants to various areas of the state and those areas which are currently designated as impacted.

DISTRIBUTION OF GRANTS AWARDED BY MONTANA COAL BOARD FROM JULY 1, 1975 THROUGH MAY 1986

Counties

Name	# of Grants	Amount
Big Horn*	14	$ 3,207,897.00
Rosebud*	23	2,315,733.11
Yellowstone	2	2,287,950.00
Multiple County[1]	3	1,378,825.34
Treasure*	12	995,463.31
Flathead	1	207,691.00
Dawson	4	153,803.72
Cascade	1	98,000.00
McCone	1	42,000.00
Musselshell	1	36,650.00
Richland	1	25,000.00
Powder River*	1	23,000.00
Custer	1	21,000.00
	65	$10,793,013.48

Cities and Towns

Name	# of Grants	Amount
Forsyth*	15	$3,569,580.29
Hardin*	16	3,382,106.77
Laurel	2	815,191.00
Lodge Grass*	7	690,190.74
Hysham	6	621,503.90
Glendive	3	252,612.99
Billings	2	175,400.00
Miles City	2	133,872.00
Wibaux	1	16,000.00
Red Lodge	1	7,362.00
	55	$9,663,819.69

School Districts

Name	# of Grants	Amount
Colstrip*	7	$ 8,021,527.50
Hardin*	4	5,280,647.98
Forsyth*	8	5,155,807.87
Lame Deer*	4	3,518,482.86
Lodge Grass*	3	2,670,014.00
Miles City	2	1,645,690.52
Treasure*	2	1,412,703.50
Glendive	2	1,385,300.00
Ashland*	2	1,028,000.00
Rosebud*	2	562,259.12
Custer	1	491,000.00
Huntly Project	1	369,261.00
Laurel	1	228,825.00
Birney*	1	72,000.00
	40	$31,841,519.35

Special Districts

Name	# of Grants	Amount
Rosebud*	19	$ 5,536,595.40
Custer	1	358,000.00
Spring Creek	1	196,742.31
Daniels	1	96,638.00
	22	$ 6,187,975.71

State Agencies

Name	# of Grants	Amount
Department of Highways	1	$ 240,000.00
Department of Commerce	2	161,532.00
Montana State University	3	87,235.55
Board of Crime Control	1	25,000.00
	7	$ 513,767.55

Indian Tribes

Name	# of Grants	Amount
Northern Cheyenne	3	$ 505,500.00
TOTAL	192	$59,505,595.78

[1]Includes grant for Tri-County/Solid Waste Disposal System to Big Horn, Rosebud, and Treasure Counties. Also, Eastern Coal Counties Task Force grant for eastern Montana.

*Areas currently designated by the Department of Commerce under section 90-6-207, MCA.

Source: Compiled by the Office of the Legislative Auditor from Coal Board records.

Illustration 5

GRANT STATISTICS

Since the creation of the coal impact assistance program in 1975, through May 1986, the board has acted on 286 applications. As a part of the board's formal procedures, each application must be reviewed on two different occasions before approval. Additional applications have been received but some have been combined with others, returned to the local government, or withdrawn by the local government. The 286 applications resulted in 192 grants

totaling over $59 million and 94 applications that were not approved, totaling approximately $51 million in requests.

The majority of the grants have been given for educational and water and sewer projects. However, in recent years the board has been approving more human services and recreation projects. Illustration 6 gives a breakdown of Coal Board grants by type of project.

GRANTS BY TYPE OF PROJECT
FROM JULY 1, 1975 THROUGH MAY 1986
IN MILLIONS OF DOLLARS

Type of Project	# of Grants	(In Millions) Dollar Value
Education	45	$30.49
Water & Sewer	47	13.00
Human Services & Recreation	21	6.36
Law Enforcement	29	5.13
Buildings & Capital Equipment	28	3.33
Planning	21	.95
Highway	1	.24
	192	$59.50

Source: Compiled by Office of the Legislative Auditor from board records.

Illustration 6

GRANT APPROVAL PROCESS

The approval process is divided into two stages, the pre-application review and the full-application review. The pre-application review is to assure the project meets statutory criteria and the full-application review is to set the funding level.

Pre-Application Process

The grant process begins with a pre-application form being sent to an applicant who had previously contacted the Administrative Officer.

The pre-application is then returned containing information on the description of the project, its relationship to coal development,

a preliminary engineering report, preliminary cost estimates, and the legal standing and financial ability of the applicant to undertake the proposal.

Grant pre-applications must be submitted to the Administrative Officer 30 days prior to board consideration. Upon receiving the pre-application, the Administrative Officer prepares it for review by the Coal Board Application Review Committee (CBARC). The committee consists of the Coal Board staff, the Bureau Chief from the Community Development Bureau, a legal staff member and an economist from the Department of Commerce.

The CBARC members review the pre-applications using the statutory criteria. The legal staff member evaluates the project to assure the applicant has legal authority to carry out the project. Evaluating coal impact and making sure the project is related to coal development, is the responsibility of the economist. This combination, plus the input from board consultants and staff, enables the Administrative Officer to compile comments and questions for the applicant. The Administrative Officer also formulates a staff recommendation to approve, deny, or table the pre-application based on the statutory criteria. Although a staff recommendation is made, the board makes the final decision on each project.

After submittal of any additional information required, the applicant makes a formal presentation of the pre-application to the Coal Board. The board then takes official action on the pre-application to either approve, deny or table the project. Approving the pre-application calls for a full application, which will be considered at the next board meeting. Denying the pre-application means the project did not conform to statutory criteria and will not be considered further. Tabling the application means more information is required and/or modifications are needed.

Full Application

If a project is approved for full application, the applicant must submit a full application form. This application must show

evidence of local government efforts to resolve coal impact, reveal current budget status or other sources of funding, demonstrate evidence of local planning efforts, and present a firm bid on project costs. After submitting this information the applicant will make another formal presentation of the project to the Coal Board. If the project is approved, the board will set its funding level and prepare the contract.

Staff Involvement

In the grant process, staff involvement originates in the CBARC meeting, in which the staff participates in the evaluation of applications according to statutory criteria. During Coal Board meetings, both the Administrative Officer and Project Evaluator present reports.

The Administrative Officer informs the board members of the applications they will be reviewing, the amount, and whether the applicant is from a designated or non-designated area. Also, a detailed summary is given of the current financial position of the board, including the amount of grants awarded in the current year, the total amount available to award, and a breakdown of amounts awarded to designated and non-designated areas.

The Project Evaluator briefs the board on the status of projects funded, through a slide presentation. It is the responsibility of the Project Evaluator to keep the board informed on the status of all projects.

Staff involvement during formal application procedures is limited. The Administrative Officer will provide background information on applicants and will furnish the board with a staff recommendation during the pre-application stage. Only background information is supplied by the Administrative Officer during the full application stage.

The Administrative Secretary's basic responsibility is to assist the Administrative Officer in preparing correspondence. During board meetings the secretary performs clerical duties, and prepares the meeting minutes.

OTHER STATES

Part of our audit work included an examination of the coal severance taxes and impact assistance programs in seven other states: Wyoming, North Dakota, Colorado, Utah, Virginia, Kentucky, and Tennessee. Illustration 7 compares various facets of Montana's program with those states.

COAL SEVERANCE TAXES AND IMPACT ASSISTANCE PROGRAMS IN OTHER STATES COMPARED TO MONTANA

	Montana	Wyoming	North Dakota	Colorado	Utah	Virginia	Kentucky	Tennessee
% for impact from severance tax	3.0%	2.5%	35%	35%	32.5% from Federal Mineral Lease Money	1%	.5%	17%
Dollar amount of funding available	FY '86 $2.6 million	FY '86 24 million	FY '86 9 million	FY '85 22 million overall 1 million from coal	FY '84 10.5 million for mineral lease & 2.4 million bonus fund	FY '86 7.5 million	Not Available	FY'85 1.7 million
Entities eligible for funding	Any governmental unit	Any governmental unit	Local subdivisions that levy a property tax	Any Local government unit or state agency	Cities counties and special districts	Only counties with severance tax collections	Only counties with severance tax collections	Only counties with severance tax collections
Type of projects funded	Local Government Services	Water & sewer, streets & roads, jail projects, highways	Local Government Services	1) Projects that can create jobs. 2) Funds for operating costs.	Health, safety, & welfare projects	Roads	County discretion	Half goes to educational syatem, and half goes to roads and stream cleaning
Types of Programs	Grants & Loans	Grants & Loans	Grants & Loans	Grants & Loans	Grants & Loans	Grants	N/A	N/A
Criteria for approving or denying grants	Need, severity of impact, local effort, availability of funds	Need & 50% local effort	1) Prove impact 2) Prove project will solve problem. 3) Show need.	1) Does juriadiction have negative fiscal impact? 2) Will project help negative fiscal impact? 3) Other sources of funding.	1) Eligibility 2) worthiness 3) priority 4) financial feasibility.	Population increase & road haul mileage	N/A	N/A
Is there a designated area?	Yes	No	No	No	Yes	Counties with coal mining	Counties with coal mining	Counties with coal mining
Grant Award (Monthly, Quarterly, Annually)	Approximately every other month	Annually	Approximately every 8 months	Twice a year	Monthly	Annually	N/A	N/A

*Not statutory criteria.

N/A - Not Applicable

Source: Compiled by Office of the Legislative Auditor.

Illustration 7

CHAPTER III

COAL BOARD PROCEDURES

The following chapter presents recommendations for improvements in Coal Board procedures. These include setting priorities, scheduling awards, and verifying other sources of funding.

APPLICATION AND APPROVAL PROCESS

The board reviews applications in a two-stage process: the pre-application stage and the full-application stage. Therefore, an application must be acted on twice before a grant is awarded. Generally, the Coal Board's application and approval process as described in Chapter II has been adequate for operations in the past. However, because of decreased funding, the needs of the board have changed.

As mentioned previously, the board reviews each application on its own merits. We believe it would be more effective to identify different categories of need and set a priority on grant requests that fall within these categories. The board could then set priorities on which categories board funding needs to be concentrated. We also believe the Coal Board should verify other funding commitments before approval and obtain documentation of these commitments before funds are released. The following sections will discuss the changes needed in Coal Board operations because of decreased funding.

Priorities

The board does not have a list of general categories that identify the needs of coal impacted areas. However, past practices indicate a pattern in Coal Board awards. The first few years the board concentrated on school construction and water and sewer projects. Recently, the Coal Board has increased funding for human services and recreation projects (see illustration 10 on page 31). It appears that Coal Board priorities have changed.

During a Coal Board meeting held in May 1986, the board devoted time to reviewing projects eligible for funding and to determining which projects had to be funded to meet the designated area requirement. A general priority list would have provided a tool to help with the decision process.

Because of decreased funding the board needs to establish general categories to identify areas in which to concentrate grants. For example, applications could be separated into categories that meet the needs of education, public health and safety, human services, road construction, and recreation. Establishing general categories will help the board assure that projects most needed will receive funding and will provide additional support in adjusting funding levels. The board could still take into account the local government's ability to provide local effort when setting funding levels.

General categories should be reevaluated periodically on either an annual or biannual basis. When developing these categories, the board should have sufficient information on what types of projects are still needed in the impacted area. The board can get an indication of present needs from the types of applications being submitted. However, the board lacks information on local government priorities and future needs. The board could collect this information by sending a questionnaire to local government officials to identify their needs. This would require applicants to set priorities for their area and provide information to the Coal Board to be used in their planning process.

Scheduled Awards

During each Coal Board meeting a number of full-applications are reviewed and awards given. Because of reduced funding, it may be necessary to schedule grant awards less frequently to assure the projects of highest priority are funded. Funding available for Coal Board administration and grants has decreased from $8.0 million in fiscal year 1984-85 to $2.6 million for fiscal year 1985-86. During the last five fiscal years, the Coal Board

has denied an average of seven applications per year totalling approximately $5,000,000. During fiscal year 1985-86 the board denied twelve applications for approximately $7,000,000. We believe the board, in part, denied more applications in fiscal year 1985-86 because of reduced funding. It appears that availability of funds may make the board's decision process more complex in the future.

The advantages of less frequent awards include:

- The board can set priorities for a number of grants at one time.
- The board's staff would have more time to evaluate applications and compare requests for similar projects from different applicants.
- The board could compare projects to available funding and adjust the amount of local effort needed on approved applications.

It is difficult to set priorities among various projects without having a list of proposed projects to consider at one time. If the board awarded grants at scheduled intervals, more applications could be considered.

The main disadvantage of scheduling awards less frequently would be the board could not act as quickly as it does now. The board has been praised in the past by local officials for its quick action. However, in times of reduced funding it is important to set priorities in order to assure funding of projects with the highest priority. We believe that funding projects on a semi-annual basis may be the most effective. This would mean the board could hold regularly scheduled meetings to review pre-applications and review full-applications twice a year.

It should be noted that the board has discussed setting priorities and scheduling awards in the past and that these recommendations were also made in our prior performance audit done in fiscal year 1980-81.

RECOMMENDATION #1

WE RECOMMEND THE COAL BOARD:

A. DEVELOP AND DISTRIBUTE A QUESTIONNAIRE DESIGNED TO IDENTIFY THE NEEDS OF LOCAL GOVERNMENTS IN THE COAL IMPACTED AREA.

B. SET PRIORITIES FOR PROJECTS TO BE FUNDED INTO GENERAL CATEGORIES.

C. AWARD GRANTS ON A SEMI-ANNUAL BASIS.

Other Funding Sources

In the past, the Coal Board has awarded grants to applicants that pledge funding from additional sources to cover the remaining cost of a project. For example, the Coal Board may be responsible for 50 percent of a project, with 30 percent being local effort, 10 percent a federal grant, and 10 percent from a mining company.

Currently, the board does not have a policy to require documentation from other funding sources to verify commitment of funds. Without this documentation the potential exists for a project not to be fully funded. The project could be left incomplete or the Coal Board could be asked to provide additional funding.

Recently an applicant requested an additional $48,000 for a community center project. The board had previously granted $317,500 for the project based on the applicant obtaining additional commitments of funding to complete the project. The resources from the other commitments never materialized. The $48,000 was requested to pay existing claims outstanding on the project which is approximately 80 percent complete.

Because of reduced funding, the board is in a position of not having money available to meet costs left unpaid because other commitments did not materialize. We believe the board could avoid this problem in the future by verifying other funding commitments before the full-application is approved and by not releasing funds until satisfactory documentation is received from other funding sources.

RECOMMENDATION #2

WE RECOMMEND THE COAL BOARD DEVELOP A POLICY AND PROCEDURES FOR THE STAFF TO VERIFY OTHER FUNDING SOURCES BEFORE THE RELEASE OF COAL BOARD FUNDS.

CHAPTER IV

COAL BOARD'S ROLE

As a part of this audit we conducted field visits to 21 projects funded by the Coal Board, reviewed project records, and interviewed project spokesmen. We also reviewed additional Coal Board project files and documentation pertaining to board operations. This chapter discusses past actions of the board in relation to legislative intent and how the role of the board has changed as impacts have been met.

GRANT CRITERIA

The board looks at each application on its own merits. During their evaluation, the board looks at criteria established in the law. These criteria include:

- need;
- severity of coal impact;
- local effort; and
- availability of funds.

In addition, the board determines if the project is consistent with the local planning model.

In addition, the board must comply with a designated area requirement specified by law. The law specifies that at least 50 percent of the grants given by the Coal Board must be awarded to local governments that are designated as having coal impact as determined by the Department of Commerce. The exact criteria for designation are discussed on page 37 of this report.

State law also specifies that no more than 7 percent of the funds can be granted to other state agencies and federally designated Indian tribes. These grants can be made only for projects designed to help local governments with problems brought about by coal development.

Conclusion

We found all projects and Coal Board operations to be in accordance with grant criteria.

APPROPRIATENESS OF GRANTS

The criteria set by the legislature allows the board a large amount of flexibility when determining which grants should be awarded. The board has awarded 192 grants for over $59 million. A large majority of these grants are for projects that address a need due to coal impact. However, during our audit we noted that due to the discretion given the board, a few grants could be questioned.

There does not appear to be a significant amount of impact as a consequence of major coal development in the Glendive area. However, Dawson Community College received a grant to construct a new vocational training center based on increased enrollment from students in the coal impacted areas and because courses were available to workers and their families employed by Burlington Northern Railroad. The city of Glendive was given a grant to improve its sewer system based on the expansion to Dawson Community College. The board then denied a request, approximately six months later, for an expansion on the Glendive Hospital due to lack of coal impact. The denial indicates a lack of consistency in determing eligibility requirements for grants.

Musselshell County was granted money for a rural addressing system based on the influx of coal miners moving into and out of the county. At the present time Musselshell County has one coal mining company that employs 10 workers. Based on this information, it is difficult to relate the need for a rural addressing system to coal development.

Conclusion

Although a few grants can be questioned, we believe that almost all Coal Board grants have been consistent with the intent of present statutes. The flexibility built into the criteria allows

the Coal Board to use considerable discretion. If it is not the intent of the Legislature that the board use its discretion, tighter criteria will have to be defined.

NEED FOR COAL IMPACT PROGRAM

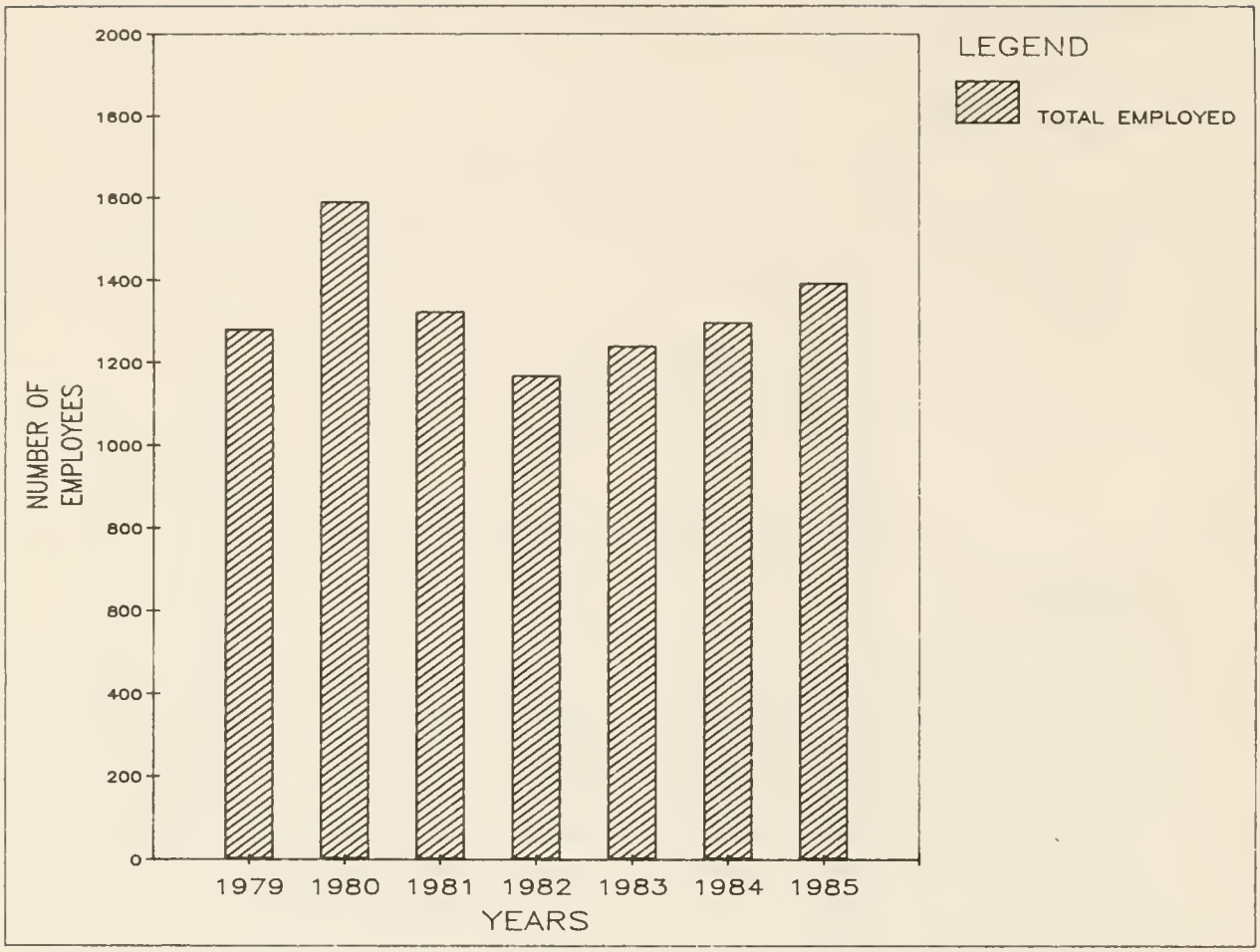
In order to judge if a program like the Coal Board is still required to meet the needs of local governments due to coal development, we attempted to:

1. identify impact still evident in coal areas;
2. predict future impact; and
3. determine the financial position of impacted areas to handle existing and future needs.

Present Impact

According to figures presented by the Coal Council (a trade association whose members are involved with coal production in Montana) and verified with Department of Labor and Industry, Workers' Compensation Division, coal mine employment has been fairly steady since 1979. Employment peaked in 1980 with 1,591 employees. Employment figures for 1985 shows employment to be 1,394 people. Illustration 8 shows the employment trend for coal mine employment in Montana.

COAL EMPLOYMENT IN MONTANA
1979-1985



Source: Montana Coal Council

Illustration 8

Coal production has shown a gradually increasing trend from 1975 through 1985. In 1975 Montana produced approximately 22 million tons of coal. In 1985 approximately 33.1 million tons of coal were produced. Production trends are shown in Illustration 9.

MONTANA COAL PRODUCTION
1976-1985

Source: Compiled by the Office of the Legislative Auditor from Worker's Compensation Division files.

Illustration 9

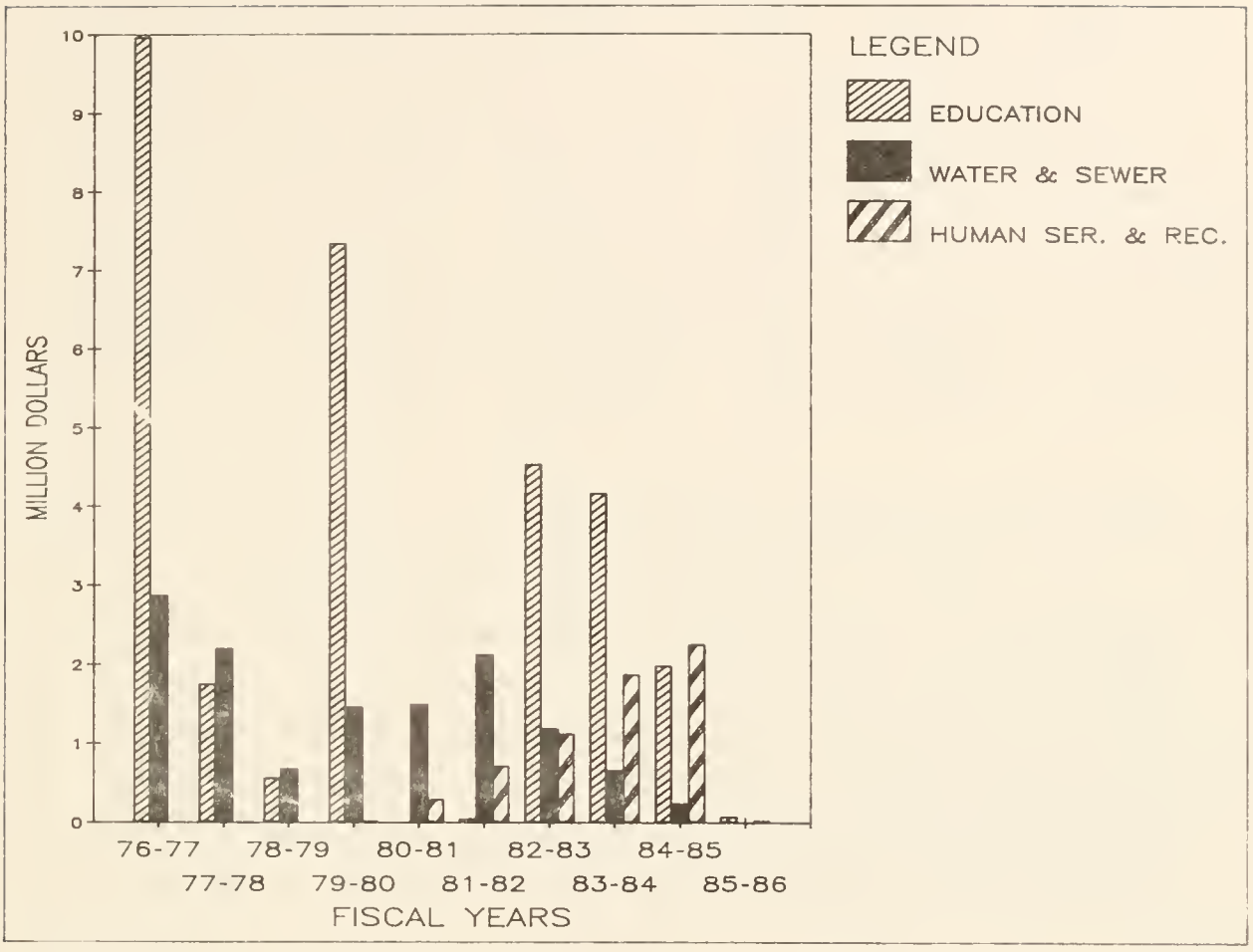
As a part of our audit we interviewed a number of local government officials and spokesmen from interested organizations. They indicated that a majority of the projects needed to meet the impact due to coal development have been addressed. However, road construction, human service programs, and preparing for impact of coal decline were mentioned as projects that should be addressed by the Coal Board.

Coal Board Trends

Education and water and sewer projects were a high priority at the inception of the local impact program. The Coal Board awarded 83 percent of their grants in these two categories the first four years of its existence (fiscal years 1976-77 through 1979-80). During the last five years, the amount of money granted has decreased substantially in these areas.

While grant amounts were decreasing for education, the board has increased its funding of human service and recreation grants each year since fiscal year 1978-79 (see Illustration 10).

COAL BOARD GRANTS BY GENERAL CATEGORIES *
JULY 1, 1976 THROUGH MAY 1986



* Does not include all general categories such as road construction, law enforcement and planning.

Source: Compiled by the Office of the Legislative Auditor from Coal Board records.

Illustration 10

Future Impact

The Coal Council predicts only a slight increase in production between now and 1990. These projections are based on industry trends and information gathered directly from coal companies operating in Montana. The Coal Council does not predict any new mines opening during that time.

Local government officials also believe that increased impact from the expansion of coal development is remote. They indicate that basic facilities, like schools and water and sewer systems, are adequate to meet demands from additional coal production. However, some believe that a coal mine will be started near Ashland sometime in the future. When that mine opens there will probably be impact that will require the help of the Coal Board. Local officials caution that impact of decline is also a strong possibility in the future. When coal decline occurs, local governments might be requesting help with human service programs such as job retraining and chemical abuse counseling, and help with maintenance costs on existing facilities.

Financial Position of Local Governments

We reviewed the financial position of counties located in the coal impact area and compared them with other counties in the state with similar populations to determine if impacted counties had fewer resources to meet existing and future needs. Although annual budgets are larger, they do not have a significant amount of debt and generally have lower mill levies. Illustration 11 shows our comparison of county financial data for fiscal year 1984-85.

COMPARISON OF LOCAL GOVERNMENT FINANCIAL POSITIONS
FOR FISCAL YEAR 1984-85

	Population	Total Budget	Mills Levied	Value 1 Mill	% Budget Levied	Debt
Treasure*	1,020	$ 400,396	57.73	$ 4,661	67	$ -0-
Golden Valley	1,082	471,519	54.06	5,301	61	-0-
Prairie	1,903	871,106	80.09	6,681	61	-0-
Jefferson	7,277	2,157,854	102.31	17,395	82	965,157
Beaverhead	8,522	2,638,448	79.85	14,671	44	140,958
Valley	9,949	4,137,968	37.21	50,509	45	500,073
Big Horn*	11,394	6,181,196	28.02	127,786	58	208,551
Rosebud*	12,170	8,624,530	15.13	237,854	42	463,029
Fergus	12,969	3,035,328	71.65	22,273	53	101,256
Park	13,296	3,818,358	77.08	18,929	38	377,972

*Counties designated as coal impacted by statute.

Source: Compiled by the Office of the Legislative Auditor from Local Government Services Bureau records.

Illustration 11

We believe that counties in the coal impacted area have the resources to support the majority of governmental services needed for their existing population without Coal Board assistance. However, some coal impact needs still exist as discussed below.

Remaining Areas of Local Impact

We believe that a majority of the initial needs (i.e., schools and water and sewer projects) created by coal development in Montana have been met. The Coal Board itself realizes its obligations have been lessened in recent years.

A resolution written by the Coal Board during their May 1986 meeting states in part:

> ". . . the Montana Coal Board's obligation to assist the local governments in Montana impacted by large scale coal development has lessened due to the current reduction in coal production due to various nationwide and worldwide economic factors . . ."

The projects needed in the impact areas due to the direct consequence of coal development can be summarized into four areas: 1) highway and road construction; 2) planning studies; 3) water monitoring projects; and 4) human services. In addition, it would be advisable to prepare for the impact of coal decline.

Highways and Roads

Recently, the Coal Board has received applications and inquiries requesting funds for highway and county road construction costs. In March, 1986, the board granted $240,000 for engineering and right of way cost for the Sarpy Creek Road in Treasure County. The road is 9.2 miles long and the total cost to complete is estimated at $4.1 million. The Department of Highways has indicated that federal and state funds will not be available to begin this road until 1989.

The board is now considering an application of $195,000, which represents one-half of engineering, right of way and utility costs for 14 miles of road in Big Horn County. The Department of Highways indicated that state and federal money would be available in 1988 to do the northern 6.3 miles of this road. The remaining 7.7 miles could not be funded until the late 1990s.

Treasure County has inquired about funding to gravel and seal 12 miles of road. The total cost of this project is estimated at $128,000.

There is no doubt that the construction and improvement needed on these roads are a consequence of coal development. It can be shown that a large number of coal trucks travel these roads regularly. In addition, workers often commute to the coal mines from nearby cities which makes these projects public safety concerns.

An official from the Department of Highways indicated that the cost of construction of a secondary highway averages $390,000 per mile. The cost to provide an overlay on existing highway averages $170,000 per mile. The Department of Highways has a program for the reconstruction of highways with priority to mineral

impacted area that will be funded, in part, with 7.76 percent of the Coal Severance Tax collected in fiscal year 1986-87. However, none of the projects now being considered by the board have been identified for funding by the Highway Commission.

Human Service Programs

Coal Board members believe that human service programs in the coal impact area should be funded by the Coal Board to some extent. They believe that the importance of human service programs will increase during coal decline. During the last two years the board has funded part of a chemical abuse program in Big Horn County. The board also funded part of the construction of the Rainbow House Mental Health Facility in Billings, Montana. It has also funded the operation of a comprehensive human service program in Rosebud County for a three year period.

In addition to chemical abuse and mental health programs, board members believe that job retraining programs may be needed during the impact of decline. During our review of other states we found that Colorado is now addressing the impact of decline. Its program funds projects that can create job opportunities or job development for those unemployed because of coal and oil decline.

Planning Studies

The board has always set a high priority on planning projects. Recently, the board funded $23,000 for the Powder River County Comprehensive Impact plan and $38,000 for the Northern Cheyenne Tribe Impact Planning Study. Additional planning studies could be done to assure cities and counties are prepared for impact due to coal development or coal decline.

Water Monitoring Projects

Water monitoring projects are also an area where the board members believe they have a role. These projects are necessary in order to understand the effects large scale coal mining has on

water quality. The Coal Board has already funded several on-going water monitoring projects. Members believe much more needs to be done in this area.

Conclusion

Because of the changing needs in coal impacted areas, it is appropriate for the Legislature to reconsider the role of the Coal Board. As shown in Illustration 10 on page 31, the initial impacts such as school construction and water and sewer projects have been met. In addition, the board has recently granted more funds toward other needs such as human services and recreation projects.

Local officials and the board have indicated projects are needed in four areas. These areas include: (1) highway and road construction; (2) planning studies; (3) water monitoring projects; and (4) human services. The Legislature needs to decide if these projects are the types of projects intended to be funded by the Coal Board. If the board is required to fund highway and road construction, more funding will be needed. Less funding may be in order if roads and highways are not funded. In addition, some of these local government needs could be met with a workable loan program as discussed in the final section of this chapter.

When re-evaluating the role of the Coal Board, legislation may be needed to redefine the designated area criteria and to assure money is available to meet additional impacts of future coal development or decline. The following section is a discussion of several alternative changes to the law depending on legislative intent for the role of the Coal Board. The major changes can be accomplished by amending the section of the law related to designated areas.

Designated Area Criteria

The Department of Commerce annually designates local governments in the coal impacted area. The Coal Board is required to award 50 percent of their grants to projects requested from

designated local governments. Before 1985 the criteria for designation included local governments experiencing a 10 percent coal-related population increase over three year periods.

The Coal Board anticipated that they would have problems with the designated area criteria because a majority of the coal impacts in these areas had been addressed. Therefore, the board requested the Coal Tax Oversight Committee to introduce legislation expanding the designated areas. The 1985 Legislature added criteria to the process to include local governments in counties that:

1. have new coal mines or coal using facilities that produce or burn over 1 million tons of coal, or existing mines that produce or facilities that use an additional 1 million tons of coal per year judged to start within the next 3 years;

2. governments located within 50 miles via an all weather road of the above projects;

3. any local government with 10 percent or more of a designated county's current population; and

4. local governments that contain mines or coal-burning facilities producing or using 1 million tons of coal that are scheduled to close within one year.

This legislation effectively expanded the designated areas to include local governments in Rosebud, Treasure, most of Big Horn, and part of Powder River Counties. Previously, only Rosebud County had local governments designated.

The state economist assigned to identify the designated local governments for the board, has indicated that if the designation criteria had not been expanded there would probably be no local governments eligible for designation for fiscal year 1986-87. The economist suggests that it might be appropriate to base the criterion for designation solely on coal-related population growth. If no local governments are eligible, 50 percent of the funds appropriated that year for Coal Board grants would revert to the Educational Trust Fund.

If it is the intent of the Legislature to reduce funding available to the Coal Board for grants, we believe reverting 50 percent of the expected allocation from the Coal Board's share of the Coal Severance Tax, when no local governments are designated, would be a feasible alternative. In addition, if the Legislature wishes to prepare for the impacts of coal decline the designated area criteria could include those local governments that would incur a decrease in tax base due to the closure of a coal mine or coal burning facility using more than 1 million tons of coal that are closed, or scheduled to close, within one year. Then, if no local governments are designated, 50 percent of the money appropriated for Coal Board grants and loans could revert to a special reserve account (instead of the Education Trust Fund) until the special account reaches 10 million dollars. Ten million dollars was chosen because the Coal Board granted approximately that amount during its first full year of operation. We believe this amount would be adequate to meet any unforeseen needs. This account would be kept in reserve until a local government meets the designation criteria. If the money in the special reserve account reaches $10 million, any money reverted could then go to the Educational Trust Fund. Any funds not used by the board at the end of the year would continue to revert to the Educational Trust Fund.

Another alternative the Legislature may want to consider involves highway and road construction. If the Legislature believes highway and road construction are viable projects for the Coal Board to fund, additional money will be required because of the high costs of road construction. In this case, if no local governments are designated, 50 percent of the money available for grants could be dedicated to highway and road projects instead of reverting immediately to the Education Trust Fund or a special reserve account. Any money not committed by the board from that 50 percent could be reverted to the special revenue fund to meet future coal impact or to the Education Trust Fund.

RECOMMENDATION #3

WE RECOMMEND THE LEGISLATURE:

A. RECONSIDER THE ROLE OF THE COAL BOARD.

B. AMEND THE DESIGNATED AREA CRITERIA AND/OR ESTABLISH SPECIAL ACCOUNTS TO MEET THE FUNDING NEEDS OF THE COAL BOARD.

Loan Program

Loans could be an appropriate method to fund some or all of the secondary needs in the coal impacted areas. The 1983 Legislature authorized the board to make loans to local governments using the same criteria established for awarding grants. Section 90-6-209, MCA, states:

> "No loan may be approved by the board if the source of money for repayment would be derived from property taxes. Repayment may be made from fees, rentals, admissions, use charges and special assessments."

The board has been unable to find a project where a loan is feasible. This is because funds received through use fees have generally been needed to maintain the project. Therefore, property taxes are often the only source available to repay proposed loans.

A majority of the initial needs, due to coal development, have been met. However, other needs that could be funded with the increased tax base still exist. Local governments in the coal impacted area appear to have resources available to meet the needs demanded by their existing populations (see page 33 of this report). Loans could be an appropriate method to finance human service programs and recreational facilities for the coal impacted areas. In addition, a workable loan program would allow the board to recycle its available funds and generate additional money to meet the demands of the program in the future.

We believe the Legislature should provide for a workable loan program by abolishing the prohibition against using property taxes for repayment.

RECOMMENDATION #4

WE RECOMMEND THE LEGISLATURE ABOLISH THE PROHIBITION AGAINST USING PROPERTY TAXES TO REPAY LOANS PROVIDED BY THE COAL BOARD.

CHAPTER V

COAL BOARD ADMINISTRATION

The board is attached to the Department of Commerce for administrative purposes only. The board is staffed with an Administrative Officer, a Project Evaluator and a half-time Administrative Secretary. The staff is responsible for receiving applications, reviewing applications for eligibility, scheduling board meetings, disbursing funds, and monitoring contract compliance.

STAFF MONITORING

Based on our observation of staff procedures and our review of job descriptions, the staff is performing their duties adequately, with the exception of two monitoring deficiencies. We believe the staff should develop a standard quarterly report form to be used by the grantees and closely monitor grantee accounting procedures as discussed in the following sections.

Standard Quarterly Report Form

The grant agreement specifies under Recordkeeping, Reports and Audits:

> "The Grantee will provide to the board the following reports each of which will include, among other things, a statement of unexpended grant funds: quarterly construction progress reports, quarterly financial status reports, quarterly completion reports and others."

Even though the completion of quarterly reports is required, the Coal Board does not use a standard reporting form. During our visits to project sites, we found applicants are unsure of what information to submit and reports are either delayed or fail to be submitted. Because of this, staff members have to spend additional time on the telephone explaining what information is required. We believe operations would be more efficient if the Coal Board staff would develop a standard quarterly report form to be used by the grantees.

RECOMMENDATION #5

WE RECOMMEND THAT THE COAL BOARD STAFF DEVELOP A STANDARD QUARTERLY REPORT FORM TO BE SUBMITTED BY THE GRANTEE.

Accounting Procedures

The grant agreement also specifies:

> "The Grantee will establish procedures to ensure that all records pertaining to the agreement are kept in a manner which is consistent with generally accepted accounting procedures and will file documentation supporting each financial action in a manner which can be readily located. The Grantee will account for funds received under this agreement separately from any other funds in order to leave a clean audit trail."

Past financial-compliance audits have identified grantees that did not properly account for board funds in a special revenue account. Consequently, the funds could not be tracked and were unauditable. We believe this problem could be resolved by having the Project Evaluator track the initial disbursements made by the Coal Board, through grantee on-site records, to assure appropriate accounting procedures are established.

RECOMMENDATION #6

WE RECOMMEND THE PROJECT EVALUATOR TRACK THE INITIAL DISBURSEMENTS MADE BY THE COAL BOARD TO ASSURE CONTRACT COMPLIANCE.

OTHER RESOURCES

Because of Coal Board involvement in many different areas, the use of outside resources by the staff is a necessity. The board has retained the services of two consulting firms. One consultant is paid an annual retainer to provide information on human service projects and health related applications. The board also uses a local engineer for water and sewer projects and road

construction. The engineer is paid on a project by project basis. There have been few water and sewer projects submitted recently, but the board is putting a strong emphasis on road construction projects. Therefore, engineering consultants may be used more extensively in the future.

The Department of Commerce has provided information and expertise to the board. The entire CBARC committee is attached to the Department including an economist and an attorney. The attorney attends each Coal Board meeting and provides information to help board decisions and operations.

Other state agencies are often called upon for information needed by the staff. For example, the Department of Highways is contacted during the evaluation of each road project and the Department of Health is often consulted during the evaluation of projects like nursing homes or hospital expansions.

The board has a Financial Assessment System (FAS) that was developed in 1979 to help assess the fiscal needs of local government applications. The purpose of the system is twofold:

1) to provide a basis for determining how much fiscal responsibility a grant applicant can assume in funding part of its grant request, and

2) to give the board quantifiable information with which to make decisions on grant applications. The information is based on bonded indebtedness and the taxable valuation of the county.

The FAS has not been used for approximately three years. Since the system provided information on only Rosebud, Big Horn, and Treasure Counties, the information acquired by the board does not require analysis by a computerized system.

Future use of the FAS depends on the possibility of new coal impacts where information is not available. For example, if a proposed mine project in Powder River County comes into existence, information would be needed. This would require the

system to be updated. Until future coal development takes place, and the system is updated, there is relatively little use for the FAS.

Conclusion

Overall, the consultants and other outside resources provide needed information to the staff.

AGENCY RESPONSES

DEPARTMENT OF COMMERCE
LOCAL GOVERNMENT ASSISTANCE DIVISION

TED SCHWINDEN, GOVERNOR

COGSWELL BUILDING—ROOM C 211
CAPITOL STATION

STATE OF MONTANA

(406) 444 3757

HELENA, MONTANA 59620

June 9, 1986

Scott Seacat
Legislative Auditor
State Capitol Building
Helena, Montana 59620

Dear Mr. Seacat:

Attached for your use is the official written response from the members of the Montana Coal Board relative to your recent completion of a performance audit.

You will note each recommendation has been addressed with the Coal Board's response immediately following.

We would like to take this opportunity to commend your staff on the fine job they performed in conducting this audit as well as their high level of professionalism in dealing with the Board and other relative individuals and staff.

Sincerely,

Hershel M. Robbins

HERSHEL M. ROBBINS
Chairman
Montana Coal Board

Attachment

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AN EQUAL OPPORTUNITY EMPLOYER

Legislative Auditor Recommendation #1

We recommend the Coal Board:

A. Develop and distribute a questionnaire designed to identify the needs of local governments in the coal impacted area.

B. Set priorities for projects to be funded into general categories.

C. Award grants on a semiannual basis.

Coal Board Response:

The Montana Coal Board partially concurs with this recommendation and offers the following comments as background on each separate section of the overall recommendation:

A. The Coal Board will address the request to have local governments identify their needs by use of a questionnaire and any other research resources and methods available to it.

B. The Coal Board will consider the development of a list of general funding categories as recommended. This is the result of decreased funding levels and does not represent a change in the Board's philosophy to continue to strive for flexibility which is at the heart of the program's effectiveness.

C. The Coal Board will consider awarding grants on a semiannual basis due to the need to set priorities and compare the merits of each project as a result of the decrease in funding levels. The Board agrees this allows for more application evaluation time and better utilizes the local effort contribution.

Legislative Auditor Recommendation #2

We recommend the Coal Board develop a policy and procedures for the staff to verify other funding sources before the release of Coal Board funds.

Coal Board Response:

The Montana Coal Board concurs with this recommendation and will fully verify the other funding sources on future grants before releasing Coal Board funds. It should be pointed out that the past history of the administration of grants reveals this verification procedure is a relatively new problem. The excellent record of projects completed on schedule and within budget after all Coal Board funds have been expended is proof of the integrity of the Grantee's statements.

Legislative Auditor Recommendation #3

We recommend the Legislature:

A. Reconsider the role of the Coal Board.

B. Amend the designated area criteria and/or establish special accounts to meet the funding needs of the Coal Board.

Coal Board Response:

The Montana Coal Board partially concurs with this recommendation and offers the following comments as background on each section of the overall recommendation.

A. The Board recommends that if the Legislature reconsiders the role of the Coal Board the purpose for which it was originally established should be maintained. The Board has successfully gained much insight and experience in reviewing basic infrastructure and human service needs over the last ten years. During this period the Board has also demonstrated its ability to serve the interests of all Montanans and particularly those in the coal impact areas as required by statute.

B. The Board strongly reaffirms its commitment to continue to support the present designation process and the establishment of an impact of decline special fund. The purpose of this special fund shall be to reserve unexpended funds, including special fund earnings, until it reaches an amount of $10 million with any excess then automatically reverting to the educational trust fund.

Legislative Auditor Recommendation #4

We recommend the Legislature abolish the prohibition against using property taxes to repay loans provided by the Coal Board.

Coal Board Response:

The Montana Coal Board wholeheartedly concurs with this recommendation to abolish the prohibition against using property taxes to repay loans provided by the Coal Board. The Board has attempted to make the loan program workable by supporting legislation to exempt provisions of current statutes to allow for loans but these efforts have all failed in the past. The elimination of the property tax repayment restriction is the single most efficient way to make the loan program effective.

Legislative Auditor Recommendation #5

We recommend that the Coal Board staff develop a standard quarterly report form to be submitted by the Grantee.

Coal Board Response:

The Montana Coal Board concurs with this recommendation to develop a standard quarterly report form to be submitted by the Grantee. The Board would like to note for the record, however, that a detailed quarterly report form is currently being used by the Board's Project Evaluator and has been for over the past two years. This form is regularly filed by the Project Evaluator and reviewed by the Administrative Officer after concurring with the Grantee during each quarterly on-site visit to a particular project.

Legislative Auditor Recommendation #6

We recommend the project evaluator track the initial disbursements made by the Coal Board to assure contract compliance.

Coal Board Response:

The Montana Coal Board concurs with this recommendation.

DEPARTMENT OF COMMERCE

TED SCHWINDEN, GOVERNOR
1424 9TH AVENUE
STATE OF MONTANA
(406) 444-3494
HELENA, MONTANA 59620-0401

June 9, 1986

Jim Pellegrini
Deputy Legislative Auditor
Office of the Legislative Auditor
Capitol Station
Helena, Montana 59620

Dear Mr. Pellegrini:

The following is the Department of Commerce's official written response to your recently completed performance audit of the Montana Coal Board. It should be noted that the Montana Coal Board is attached to the Department for administrative purposes only and as such, this response should be considered accordingly.

Legislative Auditor Recommendation # 1.

We recommend the Coal Board:

A. Develop and distribute a questionnaire designed to identify the needs of local governments in the coal impacted areas.

B. Set priorities for projects to be funded into general categories.

C. Award grants on a semiannual basis.

Department of Commerce Response:

The Department concurs with these recommendations. We believe that questionnaires, priorities for projects and a limited schedule for grant awards are appropriate management actions at this time. We believe that the Coal Board has, and continues to evaluate its role and scope, and as such, it will be responsive to realistic and appropriate needs.

Legislative Auditor Recommendation # 2.

We recommend the Coal Board develop a policy and procedures for the staff to verify other funding sources before the release of Coal Board funds.

Department of Commerce Response:

The Department concurs with this recommendation. Considerations of completeness of funding and the ability of the applicant to finish the project are always important. The history of the Coal Boards success in this area is significant.

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Legislative Auditor Recommendation # 3.

We recommend the Legislature:

A. Reconsider the role of the Coal Board.

B. Amend the designated area criteria and/or establish special accounts to meet the funding needs of the Coal Board.

Department of Commerce Response:

The Department generally concurs with these recommendations. The Department believes that it is always important for clear and timely legislative policy definitions for programs operated by state government. We do believe that the Coal Board has and does perform a necessary and appropriate function of state government. We also believe that the role of the Coal Board could be enhanced by a deliberate, but not protracted, role and scope review. Such a review, we believe, would require a careful understanding of present and past realities along with the best information projecting the future.
The Department believes that "amending the designation area criteria and/or establish special accounts..." should only be enacted after and as a result of the above mentioned deliberate review. The Department agrees with the Coal Board that an impact of decline fund should be strongly considered.

Legislative Auditor Recommendation # 4.

We recommend the legislature abolish the prohibition against using property taxes to repay loans provided by the Coal Board.

Department of Commerce Response:

The Department concurs with this recommendation. The vast majority of applicants to the Coal Board have as their main source of revenue - property taxes. We believe that if the provision of loans is to be left in the statutes, then the local governments applying, should have the responsibility to decide their indebted priorities. It is somewhat extraordinary to have this prohibition in the Coal Board's legislation and we agree that it could be responsibly removed.

Legislative Auditor Recommendation # 5.

We recommend that the Coal Board staff develop a standard quarterly report form to be submitted by the Grantees.

Department of Commerce Response:

The Department concurs with this recommendation. The Department affirms the significant improvement in project monitoring that has been and is being done by the Coal Board staff. Uniform reports on a quarterly basis, by the grantees, is another positive management tool for project monitoring.

Legislative Auditor Recommendation # 6.

We recommend the project evaluator track the initial disbursements made by the Coal Board to assure contract compliance.

Department of Commerce Response:

The Department concurs with this recommendation. Though the fiscal compliance audits of past Coal Board grant recipients shows nearly complete contract compliance, this additional management practice will be appropriate.

Department of Commerce Conclusion:

The Department commends the Legislative Audit Staff for their timely and thorough review of the Montana Coal Board. The Department will work with the Coal Board to insure that these recommendations are effectively followed and constructively implemented. Thank you for your help.

Sincerely,

Keith L. Colbo

KEITH L. COLBO
Director

cc: Hershel Robbins